BOOK REVIEWS.

INTRODUCTION TO THE STUDY OF LAW. A Handbook for the Use of Egyptian Law Students. By Frederic M. Goadby. London: Butterworth and Company. 1910. pp. xiii, 384.

Partly from a praiseworthy modesty, which is manifest throughout the book, and partly to avoid the misunderstandings inevitably attaching to the term wherever French law is paramount, Mr. Goadby has refrained from giving his book the title of an introduction to or treatise upon Jurisprudence. Primarily it is designed for an introduction to the history and system of the law administered in Egypt. But the circumstances of a French code, administered to an increasing extent along English lines to a people predominantly Mohammedan, and so governed in many matters by the Mohammedan law, affords an unusual opportunity for use of the comparative method and gives the book more claim to be a treatise upon Jurisprudence than some more pretentious works which have assumed that title.

The exigencies of writing primarily for the Egyptian student have carried with them disadvantages and advantages. One disadvantage is that some explanations necessary for the author's immediate audience are elucidations of the obvious elsewhere. A characteristic example is the careful distinction of a Justice of the High Court, a Lord Justice and a Justice of the Peace from the abstract justice which they administer according to law. Another is the use of terms in senses well understood in French (and so in Egyptian) law or polity which differ from those which we employ. For example, when one reads that the Code of Justinian was a "collection of Imperial decrees" and that the Novels were later "decrees" (p. 10) the first impulse is to charge the author with gross carelessness or inaccuracy. But "decree" is used here in the French sense of executive law-making, if one may put it so, and it seems that in Egypt there is legislative law-making in the form of "laws" and executive law-making in the form of "decrees." Hence the word chosen conveys a clear notion of the true character of Roman imperial legislation to the Egyptian student, although it conveys a wrong idea to one who has in mind the Roman *decretum* or the Anglo-American judicial decree. On the other hand it is a real advantage that the book is made concrete and that old formulas have to stand the test of application to situations their framers had never heard of. Titius and Seius, otherwise John Doe and Richard Roe, in their Egyptian guise of Ahmed and Zaky, take on a new life.

In common with all recent English writers, the author, upon the whole, is an orthodox Neo-Austinian. Mr. Salmond, many years ago, did a distinct service to analytical jurisprudence by reviewing its main tenets in the light of German juristic writing and taking over and applying a number of German ideas. Mr. Goadby, writing for students who are governed by a French code, does a similar service in adapting to each other, as well as may be, the doctrines of the English analytical school and those of the modern French jurists. Some tendency toward the philosophical view is also manifest. In part this may be due to French influence. But the references to T. H. Green's Principles of Political Obligation, the best bit of philosophical jurisprudence in English, are encouraging. The influence of the recent German conception of the legal order, the end, as the important point rather than law, the means thereto, is also manifest, although we are told that the main problems of jurisprudence are two, the nature of law, and the nature of the principal legal relations (p. 5). The problems which have assumed greater importance recently, namely, the

end of law and the application of legal rules, are left out of the enumeration, although by no means lost sight of in the text.

Among the good features of the book which will be of interest here, note may be made of a suggestive application of Austin's theory to Mohammedan law (p. 38), an accurate and discriminating discussion of the French theory and practice as to the authority of judicial decisions and of the recent tendency to make "jurisprudence" a source of law (p. 90), a convenient note on French decisions, the publications containing them and the mode of citing them (pp. 92–94), a matter to which reference in English has not been easy heretofore, a similar note with respect to French doctrinal writings (pp. 106–107), a valuable note on recent Continental ideas as to interpretation (pp. 149–150) and a note on the nature of a juristic person (pp. 241–245) presenting the modern French view as well as the now familiar doctrine of Gierke.

On the other hand, the long exposition of Savigny's theory of law (pp. 44–48) is followed by no suggestion as to the present status of that theory and the social-philosophical views that are replacing it. Also the discussion of codification does not go beyond the well-trodden path of the controversy between Thibaut and Savigny, the Austinian critique of Savigny and the answer of the English historical jurists thereto. The author accepts Amos' statement that the argument of Savigny is unanswerable. It is true he does mention the refutation of the charge that the French code has hampered legal development which Saleilles made so thoroughly and convincingly. But he does so only to disparage it. To him the idea of a code is the Benthamian one. He had seen Carter's Law: Its Origin, Growth and Function, which he criticizes justly, but not Professor Gray's Nature and Sources of Law. One must feel that the discussion of sources of law might have been much better if the latter work had been consulted.

Sir Henry Maine's unhappy prophecy as to the effect of the Louisiana code may be responsible for the over-cautious statement that the common law is the basis of the law of "most" of the United States, "the *principal* exception being Louisiana" (p. 19). But it is not so easy to account for the reference to "Sir James Bryce" (p. 14).

But such criticisms may well leave a false impression. The book is one to which American teachers of jurisprudence will be glad to refer students for many things not otherwise available in English, and in which those who do not care to read French will find much valuable material for discussion.

R. P.

MODERN THEORIES OF CRIMINALITY. By C. Bernaldo de Quirós. Translated from the Spanish by Alfonso de Salvio, with an introduction by William W. Smithers. Boston: Little, Brown and Company. 1911. pp. xxvii, 249.

During the past century many changes and ameliorations have been made in our criminal law, but there has been practically no departure from its fundamental theory of personal responsibility. Of late years European writers have strongly attacked this theory and have sought to explain criminality on other grounds. For the purpose of making these new theories available for study and experiment in this country, the American Institute of Criminal Law and Criminology arranged for the translation and publication of certain of the most characteristic writings on criminology under the general title of the Modern Criminal Science Series. The purpose of the series is indicated by the following statement in the general introduction: "Which of the various principles and methods will prove best adapted to help our problems can only be told after our students and workers have tested them in our own experience. But it is certain that we must first acquaint ourselves with these results of a generation of European thought."